

§ 319.56-2j Conditions governing the entry of apples and pears from Australia (including Tasmania) and New Zealand.⁴

Apples and pears from Australia (including Tasmania) and New Zealand may be imported only in accordance with § 319.56-2(e) (2) or (3) and under permit and in compliance with this section and the other requirements of this subpart.

(a) *Conditions of entry*—(1) *Statistical sample inspection*. A biometrically designed statistical sample will be taken under § 319.56-6 by the inspector of the plant protection and quarantine programs from each shipment⁵ of apples and each shipment of pears moved from New Zealand or Australia (including Tasmania), that are offered for entry into the United States and, if inspection of such sample discloses that pests of the family Tortricidae (fruit-leaf roller complex) which are dangerous and destructive pests of apples and pears are not present in the shipment sampled and the shipment therefore does not present a risk of introducing such pest, such fruit may be imported under § 319.56-2(e)(2) without treatment as prescribed in paragraph (a)(2) of this section. If any such pests are found on such inspection the shipment must be treated as prescribed in paragraph (a)(2) of this section.

(2) *Approved fumigation*. Fumigation with methyl bromide must be in accordance with part 305 of this chapter. The fruit may be fumigated in normal atmospheric chambers, under tarpaulins, in van trucks or other enclosures that have been approved for that purpose by an inspector of the plant protection and quarantine programs. When the fumigation is carried out, it must be accomplished in a manner satisfactory to the inspector to insure

adequate air and commodity temperatures, and proper volatilization, distribution, and concentration of the fumigant, for effective destruction of all such pests present. Apples and pears to be fumigated may be packed in wooden crates, fiberboard cartons, or other gas-permeable containers. The fruit must be packed so as to provide for maximum distribution of the fumigant. If the fruit is packed in a gas-imperious liner, the liner must be perforated to provide for the entry and aeration of the methyl bromide gas. The individual fruit may be wrapped with tissue paper. Cubic feet of space under fumigation shall include the load of fruit to be fumigated. The exposure period shall begin when all the fumigant which has been introduced into the chamber or enclosure has been volatilized. The fumigation temperatures required in these treatments shall be that of the pulp temperatures of the fruit. Fumigation with methyl bromide shall be in accordance with the following schedules:

(i) Chamber:¹

MB at NAP 1½ lb for 2 hours at 80–89 °F.

(ii) Tarpaulin truck van and refrigerator railway car fumigation:

MB at NAP 1½ lb/1,000 ft³ for 2½ hours at 80–89 °F. (18 oz minimum gas concentration at ½ hour) (14 oz minimum gas concentration at 2½ hours). 2 lbs/1,000 ft³ for 2½ hours at 70–79 °F. (25 oz minimum gas concentration at ½ hour) (18 oz minimum gas concentration at 2½ hours). 2½ lbs/1,000 ft³ for 2½ hours at 60–69 °F. (31 oz minimum gas concentration at ½ hour) (24 oz minimum gas concentration at 2½ hours). 3 lbs/1,000 ft³ for 2½ hours at 50–59 °F. (36 oz minimum gas concentration at ½ hour) (28 oz minimum gas concentration at 2½ hours). 4 lb/1,000 ft³ for 2½ hours at 40–49 °F. (45 oz minimum gas concentration at ½ hour) (34 oz minimum gas concentration at 2½ hours).

(3) *Ports of entry*. Apples and pears to be offered for entry under this section

⁴Apples and pears from Australia (excluding Tasmania) where certain tropical fruit flies occur are also subject to the irradiation requirements of part 305 of this chapter or the cold treatment requirements of § 319.56-2d.

⁵A shipment is defined as all of a type (genus) of fruit from the same country of origin offered at a U.S. port and from a single carrier, regardless of marks and numbers, growers' lots, Customs entries, or numbers of importers involved.

¹MB=methyl bromide; NAP=normal atmospheric pressure.

may be shipped to any U.S. port where inspectors are located and which are named in the permit.

(4) *Supervision of treatment.* The treatment approved in part 305 of this chapter must be conducted under the supervision of an inspector of the plant protection and quarantine programs. The inspector shall require such safeguards in each specific case for unloading and handling of the fruit at the port of entry, transportation of the fruit from the place of unloading to the treatment facilities, and its handling during fumigation and aeration as required by the PPQ Treatment Manual, as he or she deems necessary to prevent the spread of quarantine pests and assure compliance with the provisions of this subpart.

(5) *Costs.* All costs of treatment, required safeguards, and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the fruit or his or her representative.

(6) *Department not responsible for damages.* The treatment prescribed in part 305 of this chapter is judged from experimental tests and uses for quarantine purposes to be safe for fumigation of apples and pears. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment or because of safeguards required under paragraph (a)(4) of this section.

[38 FR 9005, Apr. 9, 1973, as amended at 47 FR 13320, Mar. 30, 1982. Redesignated at 50 FR 9788, Mar. 12, 1985, as amended at 68 FR 37917, June 25, 2003; 70 FR 33325, June 7, 2005; 70 FR 72887, Dec. 8, 2005]

§319.56-2k Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with part 305 of this chapter, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of Asia, Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to

other conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of Asia, Europe, North Africa, and the Near East.* The term "continental countries of Asia, Europe, North Africa, and the Near East" means Algeria, Armenia, Austria, Azerbaijan, Belarus, Bulgaria, Cyprus, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Luxembourg, Portugal, Republic of Moldova, Russian Federation, Spain, Switzerland, Syria, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.⁶

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Protection and Quarantine Programs. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with part 305 of this chapter.

(e) *Supervision of fumigation.* Inspectors of the Plant Protection and Quarantine Programs shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of

⁶Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in §319.56-2d. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.